IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1501 OF 2006

Yogesh D. Panchamiya. ...Applicant
V/s.
State of Maharashtra & Anr. ...Respondents

Shri J.B. Mishra for Applicant.
Ms.S,D, Shinde, APP for the State.

CORAM : V.M. KANADE, J.

DATED : APRIL 18, 2006

P.C. :-

. Heard learned Counsel for the applicant and learned APP for the State.

. The grievance of the applicant is that the Sessions Court while enlarging him on bail has imposed the condition that the applicant should deposit the entire loan amount with interest within the period of three months and on his failure to deposit the said amount, the bail order was automatically stood cancelled.

2. Learned APP submits that the applicant has not reported to the concerned police station as directed.

3. Learned Counsel for the applicant has invited my attention to the endorsements which are made by the concerned officer of the said police station which indicates that the applicant has reported on every Monday since the date on which the order has been passed by the Sessions Court.

4. It is a settled position in law that the Sessions Court cannot impose any further condition of depositing the amount over and above the condition of furnishing security. This condition, therefore, which is imposed by the Sessions Court is contrary to the provisions of Sections 441 and 445 of the Cr.P.C. The Sessions Court while considering the application for bail which is filed by the applicant under Sections 439 of Cr.P.C. can either grant bail or reject his application. The Sessions Court, however, is precluded from imposing such conditions which are either impossible to perform or to impose such conditions which are not permitted under the provisions of Sections 441 and 445. In my view, there is a clear bar in imposing

such condition as the one which is imposed in clause 4 of the operative order passed by the Additional Sessions Judge for Greater Bombay as laid down under Sections 441 and 445 of the Cr.P.C. The said condition is in clause 4 of the operative part of the order passed by the Sessions Judge in Bail Application No.2586/2005. The said condition, therefore, is quashed and set aside. The order passed by the Sessions Court is, accordingly, modified.

. The application is allowed in the above terms.

(V.M. Kanade, J.)